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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

PHILLIPS, HASSAN A

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 09/29/2004

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/810,559

Applicant(s)

HOGLUND ET AL.

Examiner

Hassan Phillips

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The Information Disclosure Statement (IDS) filed October 22, 2001, has been received and considered by the Examiner.

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 130, 150, 162, and 163 (see pages 2-13). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are further objected to for failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 302, 306, 307, and 314 (see Fig.'s 1-3). Corrected drawing sheets in

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compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-13, 15-62, 64-65, are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicants Admitted Prior Art (AAPA), in view of Coskrey, IV (hereinafter Coskrey), U.S. Patent 6,336,171.

3. In considering claims 1, 22, 39, and 47, the AAPA teaches a communications system for transmitting and/or receiving signals with at least two communication devices via a real time and/or a polled transmission, the communications system comprising:

At least one first gateway responsively communicable with at least a first communications device and at least a second communications device, wherein said at least one first gateway at least one of transmits and receives signals on a real time basis with the at least one first communications device and the at least one second communications device; at least one second gateway, responsively communicable with at least a third communications device, wherein the at least one second gateway at least one of transmits and receives signals on a polled basis with the at least one first communications device and the at least one third communications device; and, performing the real time and the polled transmission based upon predetermined criteria, the at least one second gateway comprising:

A scheduler determining which of the at least one first communication devices are active; a device action manager receiving notification from said scheduler and monitoring which of said at least one first communication devices have requested to download a message from said at least one third communications device; a device

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action manager receiving notification from said scheduler and monitoring which of said at least one first communication devices have requested to download a message from said at least one third communications device; a download manager receiving notification via said scheduler at which time messages associated with each of the at least one first communications device are to be downloaded; a message lookup manager determining an identifier associated with each message associated with each of the at least one first communications device and selecting those messages that have not been downloaded from the at least one third communications device to the respective first communications device; and a message processor for retrieving messages from the third communications device and transmitting the messages to the respective designated first communications device as determined by a selection system, (pages 13-15).

Although the AAPA shows substantial features of the claimed invention, it fails to explicitly disclose:

The first and second gateways operatively connectable to each other to perform real time and polled transmission.

Nevertheless, having gateways operatively connectable to each other to perform various services was well-known in the art at the time of the present invention. This is exemplified in the teachings of Coskrey. More specifically, Coskrey teaches a cluster environment comprising:

First and Second gateways operatively connectable to each other to perform any number of services, such as e-mail services, (col. 4, lines 36-51).

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Thus, given the teachings of Coskrey, it would have been obvious to one of ordinary skill in the art to modify the teachings of the AAPA to have a first and second gateway operatively connectable to each other to perform real-time and polled transmission. Both services are desirable to users for different reasons. Having the first and second gateways operatively connectable to each other to perform real time and polled transmission would efficiently provide both these highly desirable services to a user, instead of having the user choose between one or the other, Coskrey col. 4, lines 36-38.

4. In considering claims 2, 23, 40, and 48, the AAPA teaches the predetermined criteria comprising an Internet domain name associated with each of the at least one first communications device and the at least one second communications device. See pages 15-16.

5. In considering claims 3, 24, 41, and 49, the AAPA teaches the Internet domain name comprising at least one of a name of an organization or a name of an individual combined with a top level domain name. See pages 15-16.

6. In considering claims 4, 25, 42, and 50, the AAPA teaches the top level domain names comprising: .com; .net; .org; .edu; .gov; .mil; and .int. See pages 15-16.

7. In considering claims 5, 43, and 55, the AAPA provides a means for the least one first communications device to comprise a wireless messaging device, the predetermined criteria to comprise a first identifier associated with at least the at least one first gateway, and the second communications device to comprise a wireless messaging device, and the predetermined criteria to further comprise a second identifier associated with at least the at least one first gateway, wherein the at least one first communications device and the at least one second communications device transmit signals to each other via the at least one first gateway. See pages 7-10.

8. In considering claims 6, 26, 51, and 56, the AAPA teaches the signals comprising at least one of an electronic mail message, an electronic page, and a paging message. See pages 7-10.

9. In considering claims 7, 27, 44, 52, and 57, the AAPA provides a means for the least one first communications device to comprise a wireless messaging device having a first identifier associated with at least the at least one first gateway, and the at least one third communications device being an e-mail server storing messages for at least one e-mail account, each e-mail account having a second identifier associated therewith, wherein the at least one first communications device and the at least one third communications device transmit signals to each other via the first and second gateways, and wherein the predetermined criteria are respective identifiers associated

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with each of the at least one first communication device and the at least one third communication device. See pages 7-10.

10. In considering claims 8, 28, 45, 53, and 58, the AAPA provides a means for the at least one third communications device to be a post office protocol server. See page 14.

11. In considering claims 9, 29, 46, 54, and 59, the AAPA provides a means for the at least one third communications device to be an Internet messaging access protocol server. See page 14.

12. In considering claims 10, 30, and 60, the AAPA provides a means for the selection system to allow a user to select at least one of the real time and polled transmission, wherein when the user selects the polled transmission, the signals comprise at least one e-mail message that is retrieved from a specified e-mail account associated with the at least one third communications device and are transmitted to one of the at least one first communications device. See pages 13-14.

13. In considering claims 11 and 31, the AAPA provides a means for user to select a name of the specified e-mail account via the selection system. See pages 14-15.

14. In considering claims 12, 32, and 61, the AAPA provides a means for the user to specify a time at which the at least one e-mail message is transmitted from the at least one third communications device to the at least one first communications device. See pages 14-15.

15. In considering claims 13 and 62, the AAPA provides a means for the at least one second gateway to further at least one of transmit and receive signals on a real time basis with the at least one first communications device and the at least one second communications device. See pages 14-15.

16. In considering claim 15, the AAPA provides a means for the signals to comprise a facsimile transmitted from the at least one first communications device to the at least one third communications device in real time via said at least one first gateway and said at least one second gateway. See pages 13-14.

17. In considering claims 16 and 33, the AAPA provides a means for the scheduler to further determine the time at which each of the at least one first communication devices are to receive a message. See page 14.

18. In considering claims 17 and 34, the AAPA provides a means for the scheduler to access subscriber information from the selection system to determine user specified download times. See page 14.

19. In considering claims 18 and 35, the AAPA provides a means for the download manager to download messages subsequent to receiving an indication from the scheduler and the lookup manager. See page 14.

20. In considering claims 19, 36, and 64, it is implicit in the teachings of the AAPA that the message processor converts the message format of the at least one third communications device to a message format of the at least one first communications device. See pages 13-15.

21. In considering claims 20, 37, and 65, it is implicit in the teachings of the AAPA that the lookup manager deletes a message record when a corresponding message is transmitted to the at least one first communications device. See pages 13-15.

22. In considering claims 21 and 38, the AAPA provides a means for each of the at least one first gateways to have a common domain name associated therewith. See pages 14-15.

23. Claims 14, 63, are rejected under 35 U.S.C. 103(a) as being unpatentable over the AAPA, in view of Coskrey, and further in view of Choquier et al. (hereinafter Choquier), U.S. Patent 5,951,694 (supplied by applicant).

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24. In considering claims 14 and 63, although the system taught by the AAPA and Coskrey show substantial features of the claimed invention, it fails to expressly disclose:

Load balancing between the first and second gateways.

Nevertheless, load balancing was well known in the art at the time of the present invention. This is exemplified in the teachings of Choquier. More specifically Choquier teaches a method for redirecting services comprising:

Load considerations determining whether a first server or a second server is used for dynamically allocating services for a communications device, wherein when service usage level is above a predetermined threshold level the second server is used.

Thus given the teachings of Choquier, it would have been obvious to modify the teachings of the AAPA and Coskrey, to show network load considerations determining whether the at least one first gateway or the at least one second gateway is used to transmit signals from the at least one first communications device to the at least one second communications device, wherein when system traffic and/or response time is above a predetermined threshold level the at least one second gateway is used. This would have provided an efficient means for transparently using an alternate gateway for maintaining a communication between a first and second device when the original gateway is no longer capable of doing so, Choquier, col. 3, lines 51-58.

Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gottlieb, U.S. Patent 6,446,118 discloses a method and system for communicating information via a real time or polled transmission.

Cloutier et al., U.S. Patent 6,535,586 discloses retrieval of electronically stored messages via a real time and polled transmission.

Nelson et al., U.S. Patent 6,760,778 discloses real time retrieval of electronic messages.

Block, U.S. Patent 6,701,353 discloses a system for optimizing server response time to polling for new e-mail messages.

Narayanaswamy, U.S. Patent 6,611,358 discloses a message processor for converting documents to be transmitted to a mobile station according to display capabilities of the mobile station.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hassan Phillips whose telephone number is (571) 272-3940. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (703) 308-6687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HP/
9/23/04


ZARNI MAUNG
PRIMARY EXAMINER